IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 499 of 2007

Date of Decision: 22.8.2007

Union of India & ors. …Petitioners

Versus

Kashmir Singh Guleria & ors. … Respondents.

Coram:

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice V.K.Ahuja, Judge.

Whether approved for reporting?

For the Petitioner(s) : Mr. Sandeep Sharma, Asstt. Solicitor General of India.

For the Respondent(s) : Mr. Ajay Sharma, Advocate.

Deepak Gupta, J (Oral).

This writ petition is directed against the order of the Central Administrative Tribunal, in OA No. 410/HP/2005 decided on 30.8.2006 whereby the learned Tribunal has allowed the Original Application and held that the applicants (respondents herein) shall be entitled to the benefits prayed for in terms of the judgment in the case of **Bharat Bhushan** versus **Union of India**.

Briefly stated the facts of the case are that the respondents herein filed the original application before the learned Tribunal in which they pleaded that they joined the BCB during the period 1972 to 1976. They were all declared to be quasi-permanent Central Government employees in terms of the Apex Court

judgment in **Jaswant Singh** versus **Union of India,** AIR 1980, SC 195. One of the applicants is widow of an employee who has died during the service but claimed benefits on similar grounds.

All the applicants were declared surplus in the Beas Construction Board (for short: BCB). Thereafter they were re-employed with the petitioner i.e. Central Research Institute (for short: CRI), Kasauli. The respondents opted for the central pay scales in terms of the Government of India circular dated 27.2.1985. The Central Government scales were revised w.e.f. 1.1.1986 and the respondents herein again gave their fresh options for grant of Central Pay scales w.e.f.1.1.1986.

Many employees of the BCB who were placed identically as the respondents in the present case, filed an OA before the Central Administrative Tribunal and this OA being Bharat Bhushan v. Union of India was allowed and the ex-employees of the BCB were held entitled to the revised pay scale of Rs.510-800, re-revised to Rs. 1640-2900 on and w.e.f. 1.1.1986 with all consequential benefits. This OA was allowed on 9.2.2000.

The BCB filed CWP No.9969/CAT/2000 challenging this judgment. Stay order was initially granted which was vacated by the High Court. On the basis of the judgment rendered in Bharat Bhushan's case, a number of other original applications were allowed by the learned Central Administrative Tribunal.

One person, namely, Jai Karan Saini, filed OA No. 28/HP/1998 claiming similar relief. His OA was allowed on 21.8.2001 in the same terms as in the case of Bharat Bhushan and others. A writ petition was filed against this judgment in this Court. No stay

was granted and ultimately the Central Government decided to implement this judgment of the learned Tribunal subject to the decision of the High Court and further subject to the decision of the Apex Court. Many other cases were decided on similar lines.

The Apex Court had dismissed the Civil Appeal filed in the case of ex-BCB employees by the Union of India. Even CWP No.9969/2000 filed by the Union of India in the case of Bharat Bhushan and others was dismissed by the Punjab and Haryana High Court on 31.8.2005.

In fact after the judgment of the Apex Court the Government of India issued a letter dated 15.4.2005 which is in the following terms:-

> " I am directed to refer to your letter No.F-2/1/2005-NR-83 dated 23.3.2005 on the subject mentioned above. In this connection, it is stated that after dismissal of SLP in the Hon'ble Apex Court, DOP&T has already advised CGDA to grant the benefit of the CAT's order dated 10.5.1995 (claimed similar relief) may have to be extended to ex-BCB employees, whose pay has been fixed in Central Pay scale. Deptt. of Pers. and Training has also given the advice in the case of Shri J.K.Saini, Deputy Director, NSSO, Shimla to implement the CAT Chandigarh's order dated 9.2.2000 in OA No.253/CH/91 titled Bharat Bhushan and Ors vs. Union of India and Ors. The same benefits have also been extended to some of the non-petitioners.
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> 2. You are, therefore, requested to grant the similar benefit granted by CAT, Chandigarh Bench in OA No.781/PB/2001 titled Subhash Chander as the same is identical with the case of Shri Bharat Bhushan and others vs. UOI and others and intimate the factual

> position to the Hon'ble CAT, Chandigarh (Circuit Bench), Shimla."

The learned Central Administrative Tribunal, in view of the various orders passed in similar cases which orders have been upheld by the Apex Court has allowed the present OA and granted relief to the respondents. The main ground raised in this application is that the judgment in Bharat Bhushan's case has been stayed by the Apex Court. It would be pertinent to mention that when the judgment in Bharat Bhushan's case was not implemented Contempt Petitions/Misc. applications were filed before the learned Tribunal seeking implementation of the judgment. The learned Tribunal by an interim order directed the Union of India to comply with directions given in Bharat Bhushan's case. This order was challenged before the Apex Court and the Apex Court on 6.10.2003 passed the following interim order on this Special Leave Petition:-

> "Until further orders, the interim order dated 29th May, 2002 granted by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh shall remain stayed."

A perusal of the aforesaid order clearly shows that only the order dated 29.5.2002 has been stayed by the Apex Court. There is no stay order of the original application passed in Bharat Bhushan's case.

As already observed above, the Government itself vide Annexure A-16 has decided to implement the judgment of the Apex Court. The respondents who are similarly situate cannot be

discriminated in the matter. We, therefore, find no merit in this writ petition which is accordingly dismissed.

(Deepak Gupta), J.

August 22, 2007. (V.K.Ahuja), J.

s.